

CHAPTER 45
DISCIPLINE FOR CHIROPRACTIC PHYSICIANS

[Prior to 7/24/02, see 645—Ch 44]

645—45.1(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 645—13.1(272C), including civil penalties in an amount not to exceed \$1,000, when the board determines that a licensee is guilty of any of the following acts or offenses:

45.1(1) Fraud in procuring a license that includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice chiropractic and includes false representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board or the department of public health any false or forged diploma, certificate, affidavit, identification, or qualification in making an application for a license in this state.

45.1(2) Professional incompetence that includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the chiropractic physician's practice;

b. A substantial deviation by the chiropractic physician from the standards of learning or skill ordinarily possessed and applied by other chiropractic physicians in the state of Iowa acting in the same or similar circumstances;

c. A failure by a chiropractic physician to exercise in a substantial respect that degree of care which is ordinarily exercised by the average chiropractic physician in the state of Iowa acting in the same or similar circumstances;

d. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of chiropractic in the state of Iowa;

e. Failure to maintain clinical and fiscal records in support of services rendered for a minimum of five years from one of the following dates as applicable. For the purposes of this rule, clinical records shall include all laboratory and diagnostic imaging studies.

(1) For an adult patient in an uncontested case, the last office visit;

(2) For a minor patient in an uncontested case, the last office visit plus the age of 18 years;

f. Failure to comply with the department of public health standards for radiation-emitting equipment as used by a chiropractic physician, set forth in Iowa Code chapter 136C.

45.1(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession includes, but is not limited to, an intentional perversion of the truth, either orally or in writing, by a chiropractic physician in the practice of chiropractic and includes any representation contrary to the chiropractic physician's legal or equitable duty, trust or confidence and is deemed by the board to be contrary to good conscience, prejudicial to the public welfare and may operate to the injury of another. Activities under this paragraph include, but are not limited to:

(1) Alleging superiority in any way.

(2) Guarantees of any type.

(3) Improper titles.

(4) Inflated or unjustified expectations of favorable results.

(5) Self-laudatory claims of specialty practice for which credentials do not exist.

(6) Representations that patients easily misunderstand.

(7) Claims of extraordinary skills that are not recognized by the profession.

b. Engaging in unethical conduct includes, but is not limited to, a violation of the standards and principles of chiropractic ethics and code of ethics as set out in rule 645—43.2(147,272C) as interpreted by the board.

c. Practice harmful or detrimental to the public includes, but is not limited to, the failure of a chiropractic physician to possess and exercise that degree of skill, learning and care expected of a reasonably prudent chiropractic physician acting in the same or similar circumstances in this state, or instances in which a chiropractic physician is unable to practice chiropractic with reasonable skill and safety as a result of a mental or physical impairment or chemical abuse.

45.1(4) Habitual intoxication or addiction to the use of drugs that includes, but is not limited to, the inability of a chiropractic physician to practice chiropractic with reasonable skill and safety by reason of the excessive use of alcohol, drugs, narcotics, chemicals or other types of material on a continuing basis, or the excessive use of alcohol, drugs, narcotics, chemicals or other types of material which may impair a chiropractic physician's ability to practice the profession with reasonable skill and safety.

45.1(5) Conviction of a felony related to the profession or occupation of the licensee, or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence that includes, but is not limited to, the conviction of a chiropractic physician who has committed a public offense in the practice of the profession which is defined or classified as a felony under state or federal law, or who has violated a statute or law designated as a felony in this state, another state, or the United States, which statute or law relates to the practice of chiropractic, or who has been convicted of a felonious act, which is so contrary to honesty, justice or good morals, and so reprehensible as to violate the public confidence and trust imposed upon the licensee as a chiropractic physician in this state.

45.1(6) Fraud in representations as to skill or ability that includes, but is not limited to, a chiropractic physician's having made misleading, deceptive or untrue representations as to the chiropractic physician's competency to perform professional services for which the chiropractic physician is not qualified to perform by training or experience.

45.1(7) Use of untruthful or improbable statements in advertisements that includes, but is not limited to, an action by a chiropractic physician in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation and includes statements which may consist of, but are not limited to:

- a. Inflated or unjustified expectations of favorable results;
- b. Representations that imply that the chiropractic physician is a skilled chiropractic physician engaged in a field or specialty of practice for which the chiropractic physician is not qualified;
- c. Representations of practice in a profession other than that for which the chiropractic physician is licensed or use of procedures other than those described in Iowa Code chapter 151 or for which the chiropractic physician has not been trained in accordance with Iowa Code chapter 151;
- d. Representations utilizing the term "physical therapy" when informing the public of the services offered by the chiropractic physician unless a licensed physical therapist is performing such services. Nothing herein shall be construed as prohibiting a chiropractic physician from making representations regarding physiotherapy that may be the same as, or similar to, physical therapy or physical medicine as long as treatment is appropriate as authorized in Iowa Code chapter 151; or
- e. Extravagant claims or proclamation of extraordinary skills not recognized by the chiropractic profession.

45.1(8) Willful or repeated violations of the provisions of Iowa Code chapter 272C that include, but are not limited to, a chiropractic physician's having intentionally or repeatedly violated a lawful rule or regulation promulgated by the board of chiropractic examiners or the department of public health or violated a lawful order of the board or the department of public health in a disciplinary hearing or violated the chiropractic practice Acts or rules promulgated thereunder.

45.1(9) Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of chiropractic.

45.1(10) Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the board of chiropractic examiners the revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

45.1(11) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice chiropractic.

45.1(12) Willful or repeated departure from, or the failure to conform to, the chiropractic practice Acts or rules promulgated thereunder. An actual injury to a patient need not be established.

45.1(13) Inability to practice chiropractic with reasonable skill and safety by reason of a mental or physical impairment or chemical abuse.

45.1(14) Willful or repeated violation of lawful rule or regulation promulgated by the board.

45.1(15) Violating a lawful order of the board, previously entered by the board in a disciplinary hearing.

45.1(16) Being adjudged mentally incompetent by a court of competent jurisdiction. Such adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise.

45.1(17) Making suggestive, lewd, lascivious or improper remarks or advances to a patient.

45.1(18) Indiscriminately or promiscuously prescribing, administering or dispensing any order for other than lawful purpose.

45.1(19) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

45.1(20) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

45.1(21) Failure to comply with a subpoena issued by the board.

45.1(22) Failure to file the reports required concerning acts or omissions committed by another licensee.

45.1(23) Repeated malpractice.

45.1(24) Obtaining any fee by fraud or misrepresentation.

45.1(25) Failing to exercise due care in the delegation of chiropractic services to or supervision of assistants, employees or other individuals, whether or not injury results.

45.1(26) Violating any of the grounds for the revocation or suspension of a license listed in Iowa Code chapter 151.

45.1(27) Failure to maintain clean and sanitary conditions at the premises in keeping with sound public health standards.

45.1(28) Failure to respond, when requested, to communications of the board within 30 days of the mailing of such communication by registered or certified mail.

45.1(29) Failure to report child abuse or dependent adult abuse.

45.1(30) Obtaining third-party payment through fraudulent means. Third-party payers include, but are not limited to, insurance companies and government reimbursement programs. Obtaining payment through fraudulent means includes, but is not limited to:

- a.* Reporting incorrect treatment dates for the purpose of obtaining payment;
- b.* Reporting charges for services not rendered;
- c.* Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee is entitled; or
- d.* Aiding a patient in fraudulently obtaining payment from a third-party payer.

45.1(31) Practicing without a current license or practicing when a license is lapsed.

45.1(32) Failure to notify the board of a change of name or address within 30 days of its occurrence.

This rule is intended to implement Iowa Code chapter 272C.

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